

REMARKS

Claims 1-11, 13-17, 19-26, 28-36 and 38-47 are pending in the present application. Claims 1-11, 13-16, 20, 31, 32, 36 and 38-40 and 47 have been withdrawn from consideration. However, in the present action, the Examiner has apparently and erroneously withdrawn claims 41-46. Claims 41-46 have been pending and the subject of three prior Office Actions on July 14, 2005, April 5, 2006 and July 13, 2006 as well as argument and amendments to the claims. Thus, it appears that these claims have been incorrectly withdrawn and not addressed in the current Office Action. Applicant respectfully requests that claims 41-46 be further considered and addressed in a new action so that applicant can respond accordingly.

Claims 17, 19, 21-26, 28-30 and 33-35 stand rejected.

Rejection under 35 U.S.C. §103 (a)

The Examiner has rejected claims 17, 21-26, 28 and 33-35 under 35 U.S.C. §103(a) as unpatentable over Oliver, et al. ('116). Applicant respectfully traverses this rejection.

The Examiner correctly points out that Oliver does not teach the presence of asymmetric spacing of positioning features. Oliver '116 does not teach disclose or suggest the present invention and clearly shows symmetric spacing of positioning features because a second positioning feature is directly opposing the first positioning feature.

The placement of positioning features is a critical aspect of the present invention. The present invention teaches the precise and unambiguous placement of a positioning feature on one side of a patient support device with a second positioning feature asymmetrically spaced from the first feature such that the area directly opposing the first feature is free of a positioning feature. Each of the rejected claims in this grouping require at least one positioning feature on a first side of the patient support device asymmetrically spaced from at least one positioning feature on a second side.

The present specification clearly defines and spells out the configuration of asymmetric spacing as well as the functionality. For example, on page 8, lines 8-14 applicants teach that asymmetric spacing results in a positioning feature on one side of the device with the directly opposing side area free of a positioning feature. Furthermore, asymmetric spacing enables a more secure attachment of an accessory device adaptor or a more secure attachment of the accessory itself. In addition to the specification, Figure 10 clearly shows the asymmetric spacing of the present invention. (See also, page 3, lines 21-22 and page 5, lines 1-3).

The precise arrangement of positioning features would not have been obvious to one skilled in the art at the time the invention was made. To the contrary, applicant has identified, and the present invention addresses, a problem found in prior patient positioning devices. Applicant solves the above problem and provides the unexpected result of making the positioning and repositioning of patients and accessories on a table more accurate and reproducible. Furthermore, not only has no one presented the present unique solution to the problem, but such a solution has never been contemplated until the present invention.

The Examiner attempts to discard the critical aspect of the present invention and in so doing relies upon Ex Parte Wu for the general proposition that an omission of an element and its function is obvious if the function is not desired. This characterization is not appropriate in the instant invention and over simplifies the application of Wu. Precise asymmetric placement of positioning features is an essential part of the present invention. Applicant does not claim an improvement by eliminating an element from prior art. Nor does applicant simply eliminate an element (a positioning feature) as the Examiner suggests. Thus, the Examiner's reliance on Wu is misplaced and the rejection should be withdrawn.

The Examiner has also rejected claims 17, 19, 21-26, 28-30 and 33-35 under 35 U.S.C. §103(a) as being unpatentable over WIPO Publication WO 01/35828 (WIPO'828) in view of Oliver, et al. ('116). Applicant further traverses this rejection.

As discussed above, applicants teach that asymmetric spacing results in a positioning feature on one side of the device with the directly opposing side area free of a

positioning feature. As discussed above, Oliver '116 therefore fails as a primary reference. WIPO '828 cannot cure the deficiencies in Oliver. WIPO '828 does not teach positioning features at all but teaches a patient support surface 10 connected to the head 12 of a support column 14. The support surface 10 consists of a table plate 16 and a guide unit 18, which includes an upper guide housing 20 and a lower guide housing 22. The table plate 16 is slidably guided in the upper guide housing 20 in its longitudinal direction. Not only does WIPO '828 fail to teach positioning features but it fails to teach asymmetric spacing that includes a positioning feature on one side of the device with the directly opposing side area free of a positioning feature, as disclosed and claimed in the present invention. As every claim rejected requires asymmetric spacing of positioning features, the rejection should be withdrawn.

Conclusion

Based on the Remarks above, Applicant respectfully requests a new Office Action addressing all pending claims or allowance of all pending claims.

Respectfully submitted,
GOMEZ INTERNATIONAL PATENT OFFICE, LLC

Dated: June 13, 2007

By: /Brian A. Gomez/
Brian A. Gomez
Reg. No. 44,718
1501 N. Rodney Street, Suite 101
Wilmington, DE 19806
Tel: (302) 351-3323
Fax: (302) 351-8456
E-mail: bgomez@gomez-ipo.com
Attorney for Applicants